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IN THE COURT OF APPEALS OF INDIANA

JESSICA CAPERTON,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0808-CR-680
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Charles Wiles, Senior Judge
Cause No. 49F19-0805-CM-106647

March 11, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BROWN, Judge

Jessica Caperton appeals her conviction for possession of marijuana as a class A misdemeanor.[1] Caperton raises one issue, which we revise and restate as whether the trial court abused its discretion by admitting the evidence obtained from her vehicle. We affirm.

The relevant facts follow. On May 9, 2008, Indianapolis Probationary Officer Tronoy Harris and Indianapolis Police Officer Kevin Larussa were investigating an incident in which a male fired a handgun. Officers Larussa and Harris spoke with the victim. The victim gave the officers a description of the suspect's house and its location.

After the officers spoke with the victim, they drove past the suspect's house in a fully marked police vehicle. In the driveway of the house, the officers saw a vehicle backing out of the driveway. When the officers came into view of the other vehicle, the vehicle pulled back into the driveway, and the driver turned off the lights. The officers turned around and returned to the suspect's house. The officers could tell that someone was still sitting inside the vehicle, but they could not identify the person as male or female. The driver was later identified as Caperton.

The officers pulled into the driveway, put a spotlight on the back window of the vehicle, and approached the vehicle. As soon as Officer Larussa got to the passenger side window, he could see a baggy in the vehicle containing a green leafy vegetation that Officer Larussa suspected to be marijuana. Officer Larussa told Officer Harris that there

[1] Ind. Code § 35-48-4-11 (2004).

was marijuana in the vehicle and to bring Caperton out of the vehicle. Officer Harris had not said a word to Caperton before Officer Larussa saw the marijuana.

On May 9, 2008, the State charged Caperton with possession of marijuana as a class A misdemeanor. Caperton filed a motion to suppress the evidence obtained from her vehicle, which the trial court denied. The trial court found Caperton guilty as charged and sentenced her to 365 days with 363 days suspended.

The sole issue is whether the trial court abused its discretion by admitting the evidence obtained from Caperton's vehicle. We review the trial court's ruling on the admission of evidence for an abuse of discretion. Noojin v. State, 730 N.E.2d 672, 676 (Ind. 2000). We reverse only where the decision is clearly against the logic and effect of the facts and circumstances. Joyner v. State, 678 N.E.2d 386, 390 (Ind. 1997), reh'g denied. Even if the trial court's decision was an abuse of discretion, we will not reverse if the admission constituted harmless error. Fox v. State, 717 N.E.2d 957, 966 (Ind. Ct. App. 1999), reh'g denied, trans. denied. Caperton argues that the police officers violated her rights secured by the Fourth Amendment to the United States Constitution and, therefore, that the trial court abused its discretion by admitting the marijuana into evidence.

The Fourth Amendment to the United States Constitution provides, in pertinent part: "The right of people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated . . . ." U.S. CONST. amend. IV. Pursuant to the Fourteenth Amendment of the United States Constitution,

individual states must provide their citizens with the protections afforded by the Fourth Amendment. See Mapp v. Ohio, 367 U.S. 643, 81 S. Ct. 1684 (1961), reh'g denied, 368 U.S. 871, 82 S. Ct. 23 (1961).

Caperton argues that the trial court abused its discretion by admitting the evidence obtained from her vehicle because the officers' action in pulling behind her vehicle and putting a spotlight on the car constituted a seizure and that the police did not have reasonable suspicion to seize her. Even assuming, without deciding, that Caperton was seized, we conclude that the officers' actions were supported by reasonable suspicion.

"A brief investigative stop may be justified by reasonable suspicion that the person detained is involved in criminal activity." Finger v. State, 799 N.E.2d 528, 532 (Ind. 2003) (citing Terry v. Ohio, 392 U.S. 1, 31, 88 S. Ct. 1868 (1968)). Reasonable suspicion to justify an investigative stop must be based on specific and articulable facts known to the officer at the time of the stop that lead the officer to believe that "criminal activity may be afoot," Terry, 392 U.S. at 30, 88 S. Ct. at 1884, or "that a person they encounter was involved in or is wanted in connection with a completed felony." U.S. v. Hensley, 469 U.S. 221, 229, 105 S. Ct. 675, 680 (1985).

The concept of reasonable suspicion, like probable cause, is not readily, or even usefully, reduced to a neat set of legal rules. Platt v. State, 589 N.E.2d 222, 226 (Ind. 1992). "In evaluating the validity of a stop such as this, we must consider 'the totality of the circumstances – the whole picture.'" U.S. v. Sokolow, 490 U.S. 1, 8 109 S. Ct. 1581, 1585 (1989) (quoting U.S. v. Cortez, 449 U.S. 411, 417, 101 S. Ct. 690, 695 (1981)). We

review the trial court's determination of reasonable suspicion de novo. Sellmer v. State, 842 N.E.2d 358, 360 (Ind. 2006) (relying on U.S. v. Arvizu, 534 U.S. 266, 273-274, 122 S. Ct. 744 (2002)).

Caperton argues that "[t]he facts in this case that an unidentified male who lives in a yellow house used a firearm are not facts to rise to a level of reasonable suspicion to seize a female sitting in a parked car." Appellant's Brief at 5. The record reveals that Officers Harris and Larussa were investigating an incident in which a male fired a handgun. The victim gave the officers a description and location of the suspect's house. The officers drove to the location given by the victim and encountered a person in the driveway that they could not identify as male or female. When the police came into view of the other vehicle, the vehicle pulled back into the driveway, and the driver turned off the lights. Under the circumstances, we conclude that the officers had reasonable suspicion to investigate Caperton. Consequently, the trial court did not abuse its discretion by admitting the evidence. See Murphy v. State, 747 N.E.2d 557, 559-560 (Ind. 2001) (agreeing with trial court's finding that, even if an attempted tackle by one of the officers was considered a seizure, the officers had reasonable suspicion to seize the defendant); Coates v. State, 534 N.E.2d 1087, 1092 (Ind. 1989) (holding that a vehicle fitting the description of one used by the crime suspect provides reasonable suspicion for making an investigatory stop).

For the foregoing reasons, we affirm Caperton's conviction for possession of marijuana as a class A misdemeanor.

Affirmed.

ROBB, J. and CRONE, J. concur